

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA** :

**vs.** : **CRIMINAL NO. 05-00183-WS**

**ANTHONY RICHARD KINARD** :

**ORDER ON RESENTENCING**

On January 18, 2007, the Eleventh Circuit Court of Appeals entered Judgment (Doc. 108) affirming Defendant's conviction but vacating his sentence and remanding for resentencing consistent with the opinion of that Court. Following receipt of the mandate, the undersigned entered Orders (Docs. 109 and 117) seeking the parties' position on various matters which would affect the scheduling of a resentencing hearing. The Government's response (Doc. 116) and the Defendant's Response (Doc. 121) have been considered and were discussed during a telephone conference conducted on March 19, 2007. The Government represents that it will not present evidence on or seek an enhancement under U.S.S.G. §2D1.1(b)(6)(A). Defendant states that he waives his right to be present and to allocate during a resentencing hearing. Both parties agree that no hearing is necessary and that Defendant's sentence can be amended by written order of this Court.

In light of the Eleventh Circuit's holding regarding the enhancement under §2D1.1(b)(6)(A), and given the Government's representation that it does not intend to produce evidence in support of this enhancement, this Court finds Defendant's sentencing guidelines adjusted offense level to be 25. Defendant has 12 criminal history points placing him in criminal

history category V, which generates the sentencing guideline range of 100-125 months.

Upon consideration of all matters presented, the Court, having reviewed the transcript of the original sentencing hearing and having considered all of the matters which affect sentencing including the factors under 18 U.S.C. § 3553(a), determines that, in this case, the Sentencing Guidelines produce a reasonable sentence and that a sentence at the low end of the Guidelines is appropriate. Accordingly, pursuant to the Sentencing Reform Act of 1984, it is the judgment of this Court that Defendant, Richard Kinard, is hereby committed to the custody of the United States Bureau of Prisons, to be imprisoned for a term of 100 months. All other terms and conditions of the original sentence imposed on December 23, 2005 (Doc. 77) remain in effect.

**DONE** and **ORDERED** this 20<sup>th</sup> day of March, 2007.

s/WILLIAM H. STEELE

UNITED STATES DISTRICT JUDGE